

specifying the manufacturer's objections to the Administrator's determinations, and data or other analysis in support of such objections. If, after review of the request and supporting data or analysis, the Administrator finds that the request raises a substantial factual issue, he/she shall provide the manufacturer a hearing in accordance with § 86.1853-01 with respect to such issue.

§ 86.1852-01 Waivers for good in-use emission performance.

(a) The Administrator may waive requirements of this subpart relating to development of emission-related information or test data if the Administrator determines with confidence that the in-use emission test verification data required in § 86.1845-01 are below the applicable emission standards for an appropriate period of time, and that such performance is likely to continue in subsequent model years.

(b) Any waiver granted under paragraph (a) of this section will be granted only if the Administrator determines that the waived requirement is not needed to assure continued emission compliance and the Administrator will have sufficient testing and other information in order to make certification decisions.

(c) Any waiver granted under paragraph (a) of this section would be limited in duration to a period of one model year, unless extended by the Administrator as a result of continued demonstrations of good in-use emission performance.

(d) The Administrator reserves the right to deny or revoke a waiver which may have been granted if he/she determines that the manufacturer no longer qualifies for the waiver.

§ 86.1853-01 Certification hearings.

(a)(1) After granting a request for a hearing under this subpart, the Administrator shall designate a Presiding Officer for the hearing.

(2) The hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(3) In the case of any hearing requested pursuant to § 86.1850-01(e), the Administrator may in his discretion di-

rect that all argument and presentation of evidence be concluded within such fixed period not less than 30 days as he may establish from the date that the first written offer of a hearing is made to the manufacturer. To expedite proceedings, the Administrator may direct that the decision of the Presiding Officer (who may, but need not be the Administrator) shall be the final EPA decision.

(b)(1) Upon appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator together with any accompanying material, the request for a hearing and the supporting data submitted therewith, and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The hearing file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d)(1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

- (i) Simplification of the issues;
- (ii) Stipulations, admissions of fact, and the introduction of documents;
- (iii) Limitation of the number of expert witnesses;
- (iv) Possibility of agreement disposing of all or any of the issues in dispute;
- (v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.